

3727
JFWIN THE UNITED STATES PATENT AND TRADEMARK OFFICE-----
In re Application of: :

VALDEZ-CAMPBELL, Marilyn : Docket No.: MVC-1

Serial No.: 09/992,641 : Group Art Unit: 3727

Filing Date: Nov. 13, 2001 : Examiner: Cronin

For: FLEXIBLE FOLDABLE MULTI- :
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on: Oct. 6, 2004James K. Poole 10/6/04 (Sig./date)

Mail Stop Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR 1.181

Sir:

In response to the Notice of Abandonment mailed August 13, 2004, Applicant respectfully requests that the above-identified application be revived and prosecution resumed, for the following reasons.

Paragraph 4 of the Office Action mailed December 15, 2003 (which belatedly considered Applicant's Declaration under 37 CFR 1.132 timely filed with the Information Disclosure Statement filed February 13, 2002) stated in part that "Applicant must supply detailed information involving the two occurrences mentioned ... including: Information of who became aware of applicants invention during the above occurrences, and what if any confidentiality agreements were reached with those who came in contact." Paragraph 4 also stated that "Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment."

As stated on pages 8/9 of the Amendment filed April 15, 2004 with a first month's Extension of Time, the Request for

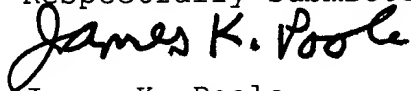
Information included in the previous Office Action was defective in failing to cite the authority of 37 CFR 1.105 as required by MPEP 704.14(a). Nevertheless, Applicant and her undersigned Attorney made a good faith effort to respond, attaching a new Declaration under 37 CFR 1.132 of Applicant with statements of members of the Beaver, Sheets and Cree families attached to document the confidential conditions under which three prototypes of the invention were tested. As stated in paragraph 4 of that Declaration, Applicant/Declarant was unable to obtain statements from the other two families in time for submission of the Amendment (i.e., without requesting an additional month's Extension of Time).

It is respectfully submitted that the original Request for Information should be considered insufficient basis for holding the present application abandoned, due to the defect noted above. Further, it is respectfully submitted that rather than holding the application abandoned due to the perceived lack of two statements from recipients of the prototypes, the good faith efforts of Applicant to respond under 37 CFR 1.111 (c) should have been acknowledged and additional time allowed to obtain such statements in the Examiner's response mailed August 13, 2004. 37 CFR 1.105(a)(3) states that "Any reply that states that the information required to be submitted is ... not readily available to the party ... from which it was requested will be accepted as a complete reply." [Emphasis added.] Furthermore, under 37 CFR 1.135(c), when a *bona fide* effort to respond in a substantially complete manner to an Office Action or other requirement is timely filed but omits some item, Applicant may be given an additional time period under 37 CFR 1.134 to reply. Such treatment, even with a shortened statutory period for reply, would have given Applicant an opportunity to respond completely and have the claims considered on their merits without the

disruption of the application becoming abandoned.

Attached is a third Declaration under 37 CFR 1.132 of Applicant, with statements by the remaining two families which tested prototypes of the invention. It is respectfully requested that the holding of abandonment be withdrawn and this application be revived as soon as possible, thereafter to be returned to the Examiner for timely consideration of Applicant's Amendment and response to the second non-final rejections of the claims as presented.

Respectfully submitted,

A handwritten signature in black ink that reads "James K. Poole". The signature is written in a cursive style with a large, stylized "J" and "P".

James K. Poole

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Attachments: Applicant's Declaration under 37 CFR 1.132 and two personal statements